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Honorable Timothy Dore

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8 IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

9 **THOMPSON, Erin Elizabeth,**

10 Debtor.

11 **THOMPSON, Erin Elizabeth,**

12 Plaintiff,

13 v.

14 **UNITED STATES OF AMERICA**
15 **ACTING THROUGH THE U.S.**
16 **DEPARTMENT OF EDUCATION and**
MAXIMUS EDUCATION LLC DBA
AIDVANTAGE,

17 Defendants.

Number 22-11903

Adversary Number:

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF STUDENT
LOANS**

18 Erin Elizabeth Thompson, the Debtor (hereinafter "Plaintiff") allege as follows:

19 **A. Jurisdiction**

20 1. That this Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 & 28
21 U.S.C. 157(b)(2)(G). This matter relates to a case under Title 11 of the United States Code.
22 This proceeding is defined as a "core proceeding" as that is defined in the Code. Plaintiff
23 consents to entry of final orders or judgment by the bankruptcy court in this adversary
24 proceeding.

25 **B. History**

26 COMPLAINT - 1

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1 2. Plaintiff filed her Chapter 13 Bankruptcy Proceeding in the United States bankruptcy
2 court for the Western District of Washington on October 30, 2022 under case number 22-
3 11903.

4 3. That this Court upon the filing of the Petition duly entered an Order for Relief under
5 the provisions of the Bankruptcy Code.

6 4. That Jason Wilson-Aguilar was appointed the chapter 13 Trustee in the Thompson
7 Chapter 13 case and serves in that capacity in this case.

8 **C. Facts and Allegations**

9 5. That pursuant to 11 USC § 523(a)(8) educational benefit overpayment or loan made,
10 insured, or guaranteed by a governmental unit, or made under any program funded in whole
11 or in part by a governmental unit or nonprofit institution; or an obligation to repay funds
12 received as an educational benefit, scholarship, or stipend; or any other educational loan that
13 is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of
14 1986, incurred by a debtor who is an individual are nondischargeable unless excepting the
15 debt from discharge would impose an undue hardship on the debtor or the debtor's
16 dependents. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 278 (2010) ("the
17 bankruptcy court must make an independent determination of undue hardship . . . even if the
18 creditor fails to object or appear in the adversary proceeding."). This inquiry is undertaken
19 through a formal adversary proceeding in the bankruptcy court. *United Student Aid Funds*, 559
20 U.S. at 263-64; Fed. R. Bankr. P. 7001(6).

21 6. Defendant, Maximus Education LLC dba Aidvantage (hereinafter "Aidvantage"),
22 asserts claims arising out of student loans owed by Plaintiff. Plaintiff listed multiple loans
23 from the US Department of Education on Schedule F which appear to be the basis of claims
24 by Aidvantage. The amount owed is estimated to be \$64,000.00.

1 7. That Plaintiff believes and alleges that the repayment of student loans to Defendants
2 would impose an undue hardship on Plaintiff.

3 8. That on or about the 17th day of November 2022 The Department Justice issued
4 Guidance for Department of Justice Attorneys in regards to Student Loan Bankruptcy
5 Litigation which Plaintiff is requesting the Defendants utilize in evaluating whether
6 Plaintiff's student loans should be discharged. Plaintiff acknowledges that the Guidance
7 Memorandum is an internal Department of Justice policy directed at Department components and
8 employees and it is not intended to and does not create any rights, substantive or procedural,
9 enforceable at law by any party in any matter.

10 9. Plaintiff requests that upon receipt of this Complaint that Defendants will provide
11 Plaintiff's attorney with the record of Plaintiff's account history, loan details, and, where
12 available, educational history.

13 10. Upon receipt of the information from Defendants as to Plaintiff's student loans,
14 Plaintiff will prepare and file in this adversary proceeding an Attestation (as prescribed by
15 the Department of Justice) in order to assist Defendants in stipulating to facts demonstrating
16 that the debts would impose an undue hardship on the Plaintiff and recommend to the Court
17 that Plaintiff's students loan be discharged if three conditions are satisfied: (1) Plaintiff
18 presently lacks an ability to repay the loan; (2) Plaintiff's inability to pay the loan is likely to
19 persist in the future; and (3) Plaintiff has acted in good faith in the past in attempting to repay
20 the loan.

21 11. Upon receipt of Plaintiff's Attestation Plaintiff requests that Defendants stipulate to facts
22 demonstrating that a debt would impose an undue hardship and recommend to this Court that
23 Plaintiff's student loan be discharged.

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Dated this 21st day of December 2022.

Law Offices of Travis Gagnier, Inc., P.S.
Attorneys for Plaintiff

/s/ Travis A. Gagnier
Travis A. Gagnier, WSBA #26379
Gregory Jalbert, WSBA #9480
Of Counsel

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